

CORRECTIONS/AMENDMENTS TO THE DRAWINGS

Corrected drawings are submitted herewith. The corrections are indicated in a marked-up copy of the drawings submitted herewith, and are incorporated into a clean copy of the corrected drawings submitted herewith.

FIGS. 1A through 7F have been amended to change reference numbers for consistency with corresponding amendments to the reference numbers in the specification.

Also submitted herewith are new Figures 10 and 11, which are identical (other than renumbering of elements, etc.) to Figs. 5 and 7, respectively, from U.S. Provisional Application Serial No. 60/203,647, from which the current application claimed priority when it was originally filed and the contents of which were expressly incorporated by reference at page 1 of the current application as filed. Moreover, Figs. 5 and 7 from U.S. Provisional Application Serial No. 60/203,647 were described in the original language of the current application, including at pages 3-4, 6-13, and 19-20 of the originally-filed specification. Accordingly, no new matter is added by the incorporation of new FIGS. 10 and 11 into the current application.

REMARKS

Applicant is extremely appreciative of the assistance and comments provided by Examiner Shay in the Personal Interview between Examiner Shay, Joseph Neev, and Richard Cates on August 22, 2008.

By this Amendment, the Specification and Drawings have been amended to provide for consistent numbering of elements depicted in the drawings and referred to in the Specification. No new matter is added by the amendments to the Specification and Drawings.

Claims 21, 38, 55, and 56 have each been amended to incorporate one or more of the limitations discussed in the Personal Interview of August 22, 2008, including limitations that the heat is provided to produce pore expansion through thermal effects, and that no emitted energy other than thermal energy reaches the target surface. Support for these limitations is found throughout the Specification, including at paras. 0013, 0087, 00109, 00113, 00194, 00278, 00281, and 00283, as well as in Figs. 1D – 1F. No new matter is added by the claim amendments.

New claims 64 through 68 have been added. Claim 64 includes limitations relating to a cap, which is supported throughout the application, including in Figs. 7D – 7E. Claims 65-68 include limitations regarding the surface area of the absorbing material and of scanning said area. Support for these new claims is found throughout the application, including at paras. 0086, 00157, and 00246 of the Specification. No new matter is added by the new claims.

The Objection to the Drawings:

The Examiner objected to the drawings due to non-consecutive numbering and some elements having no numbering. By this Amendment, corrected drawing sheets in the form of Replacement Sheets (as well as sheets indicating the corrections made) are submitted, which include corrected numberings, etc. The Replacement Sheets of drawings are believed to be in compliance with 37 CFR 1.121(d).

The Objection to the Amendments of January 11, 2008 and April 24, 2007:

The Examiner objected to the amendments as introducing new matter, and specifically as introducing material related to “a system for enhancing or improving the transcutaneous or

transdermal delivery of various topical substances, chemicals, or drugs.” Applicant notes, however, that the cited material was included in the originally-filed application. More specifically, the exact language cited was included in the originally-filed application at page 33 in the last paragraph thereof. Applicant further notes that the original specification as filed included, at page 39 thereof, the following text:

“In another preferred embodiment of the present invention, the target area comprises skin, and application of the energy thereto causes pores in the skin to expand. Pore expansion may be used to enhance transdermal drug delivery and/or as part of an acne treatment.”

Accordingly, it is not believed that any new matter is introduced by the material related to “a system for enhancing or improving the transcutaneous or transdermal delivery of various topical substances, chemicals, or drugs.”

The Rejection of Claims under 35 U.S.C. 112:

The Examiner rejected claims 21-23, 25, 29, 33-35, 38-40, 45-51, and 54-63 as being unclear due to the term “generally solid.” By this Amendment, the relevant claims have been amended to replace the term “generally solid” with “solid.” The claims as amended are now believed to be in compliance with 35 U.S.C. 112.

The Examiner rejected claims 38-40, 49-51, 54-56, and 58-63 as failing to comply with the written description requirement due to the language “device sized and configured to be held in the hand” and “thereby to enhance transdermal drug delivery.”

Regarding the device “sized and configured to be held in the hand,” Applicant notes that the specification refers to various handpieces, which are also depicted in the drawings, including a cylindrical handpiece (e.g., Figs. 2A – 2B) as well as a pistol-shaped handpiece (Fig. 4), and the application is thus believed to depict and describe devices sized and configured to be held in the hand. However, to expedite prosecution of the application, the claims have been amended to simply recite the term “handpiece,” which is taken directly from the specification.

Regarding the term “thereby to enhance transdermal drug delivery,” Applicant notes that the original specification as filed included, at page 39 thereof, the following text:

“In another preferred embodiment of the present invention, the target area comprises skin, and application of the energy thereto causes pores in the skin to

expand. Pore expansion may be used to enhance transdermal drug delivery and/or as part of an acne treatment.”

This same language is present in the current Substitute Specification at para. [0030].

Accordingly, the term “thereby to enhance transdermal drug delivery” is supported, and the claims are believed to be in compliance with the written description requirement.

The Rejection of Claims under 35 U.S.C. 102:

The Examiner rejected claims 21-23, 33-35, 45, 47, and 48 as being anticipated by Neev WO ‘438. In the rejection, the Examiner noted that the absorbing material of Neev WO ‘438 forms a film on the skin which could be interpreted as being “generally solid.”

As a first matter, Applicant notes that the term “generally solid” has been replaced in the pending claims with “solid,” which is believed to eliminate lotions such as taught by Neev WO ‘438.

Applicant also notes that claim 21 (from which claims 21-23, 33-35, 45, 47, and 48 depend) has been amended to include the limitation that the intermediate material prevents any emitted energy from reaching the target area of the skin without being absorbed by the intermediate substance and converted into thermal energy. This is in contrast to Neev WO ‘438, wherein emitted energy is permitted to pass into the skin to reach the hair follicles in order to remove the hair. See, e.g., Figs. 6 and 8 of Neev WO ‘438. Accordingly, claims 21-23, 33-35, 45, 47, and 48 as amended are believed allowable.

The Rejections of Claims under 35 U.S.C. 103:

The Rejection of Claims 25 and 46:

The Examiner rejected claims 25 and 46 as being obvious in view of Neev WO ‘438. In the rejection, the Examiner noted that replacing the lotions of Neev WO ‘438 with agar or tracing paper would be obvious.

The rejection is respectfully traversed in view of the amendments to the claims. Claim 21 (from which claims 25 and 46 depend) has been amended to include the limitation that the intermediate material prevents any emitted energy from reaching the target area of the skin without being absorbed by the intermediate substance and converted into thermal energy. This is

in contrast to Neev WO '438, wherein emitted energy is permitted to pass into hair follicles of the skin in order to remove the hair. See, e.g., Figs. 6 and 8 of Neev WO '438. Accordingly, claims 25 and 46 (depending from claim 21 as amended) are believed allowable over the cited art.

The Rejection of Claims 38-40, 49-51, and 54:

The Office rejected claims 38-40, 49-51, and 54 as being obvious over Neev WO '438 in view of Baker et al.

Applicant believes that the claims as amended are allowable over the cited art. Independent claim 38 (from which claims 39-40, 49-51, and 54 depend) recites a solid film having a first side configured to be placed against the skin, with an absorbing material positioned on an opposing second side of the solid film, with the absorbing material absorbing the radiative energy to produce heat. This solid film is quite different from the lotions taught by Neev WO '438. Claim 38 has been additionally amended to recite that pore expansion occurs due to thermal effects. This is different from Neev WO '438 and Baker et al. Accordingly, claims 38-40, 49-51, and 54 as amended are believed allowable.

The Rejection of Claims 55-63:

The Office rejected claims 55-63 as being obvious over Neev WO '438 in view of Eckhouse et al.

Applicant believes that the claims as amended are allowable over the cited art. Independent claim 55 (from which claims 56-63 depend) recites an intermediate material configured to absorb radiated energy from the energy source, and to prevent exposure of the skin to any energy emitted from the energy source other than thermal energy. This is in contrast to WO '438 and Eckhouse et al., both of which teach lotions which permit emitted energy to reach into hair follicles and/or other parts of the skin. Accordingly, claims 55-63 as amended are believed allowable over the art cited.

The New Claims

By this Amendment, new claims 65-68 have been added. The new claims depend from claim 38, and add limitations regarding the surface area of the absorbing material exposed to the

radiative energy, and also (in claim 68) scanning of the energy source across the absorbing material. No such teaching is found in the art of record.

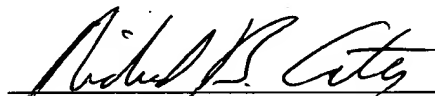
CONCLUSION

Applicant is particularly appreciative of the Examiner's efforts in reviewing this application and in the recent personal interview.

In view of the foregoing, it is submitted that all pending claims are now in condition for allowance. Hence an indication of allowability is hereby requested. If for any reason direct communication with Applicants' attorney would serve to advance prosecution of this case to finality, the Examiner is cordially urged to call the undersigned attorney at the below-listed telephone number.

Respectfully submitted,

Dated: October 1, 2008



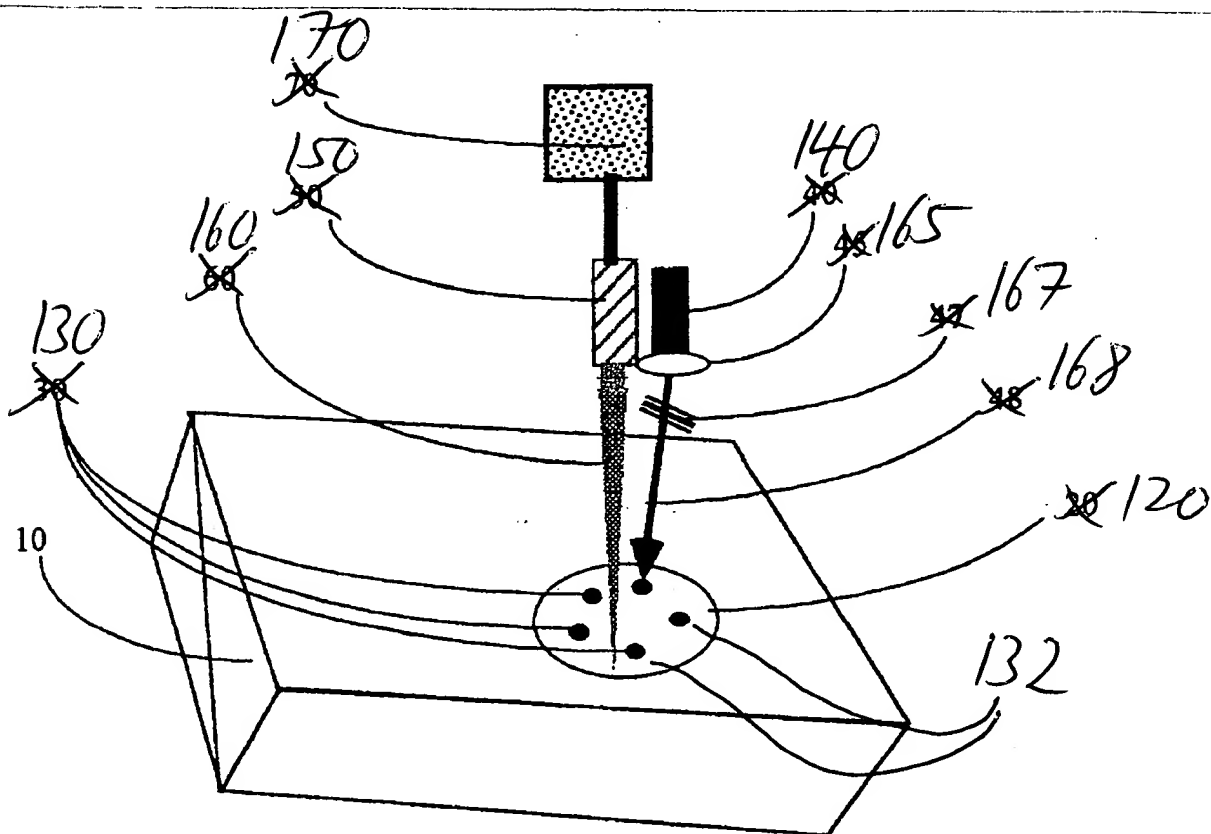
Richard B. Cates, PTO Reg. No. 36,100

Telephone: (310) 318-6499

Facsimile: (310) 318-6422

CUSTOMER No.: 000056549

FIGURE 1A



Corrected Drawings - Annotated

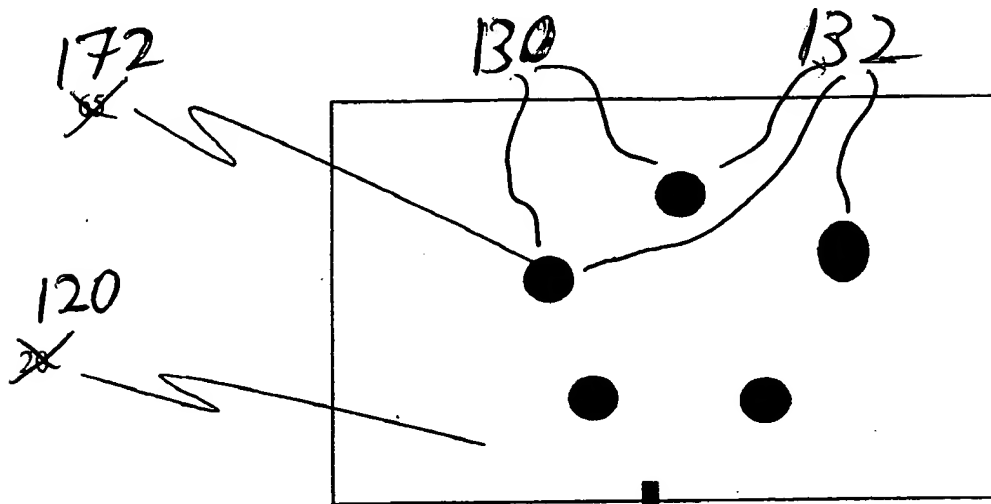


Figure 1B

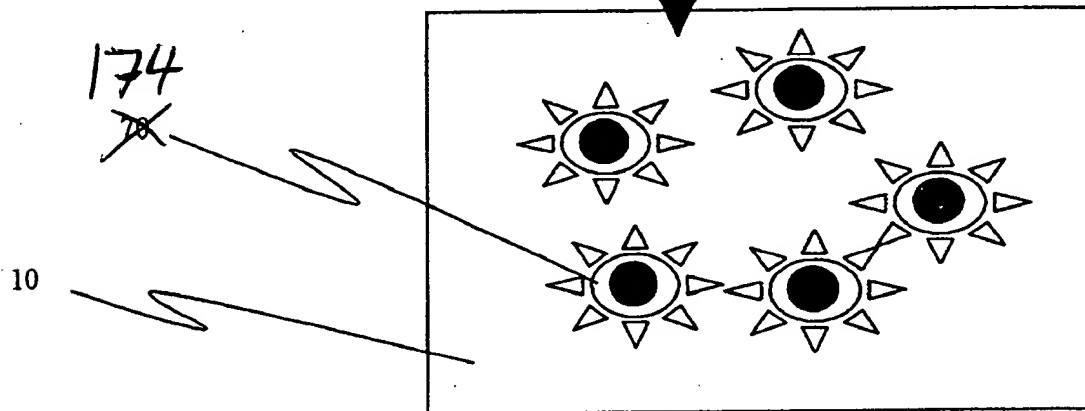


Figure 1C

Corrected Drawings - Annotated

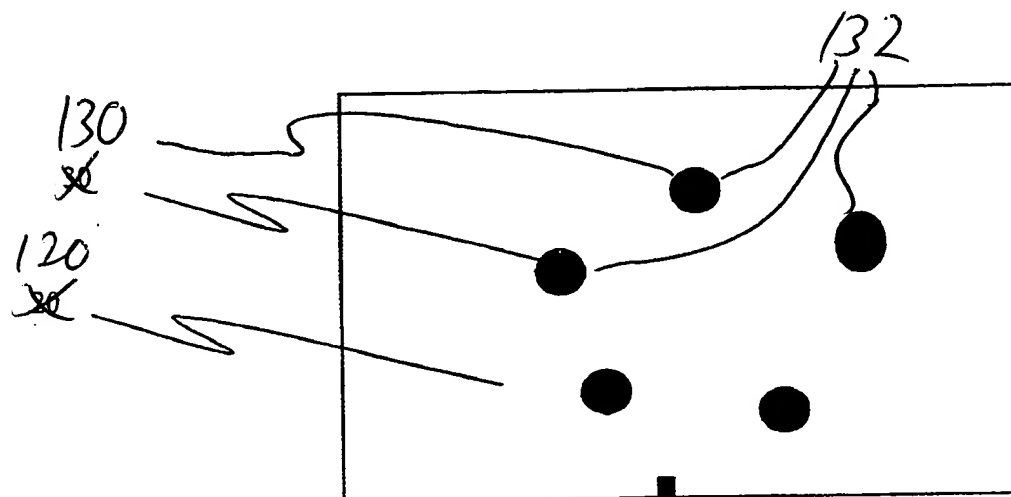


Figure 1D

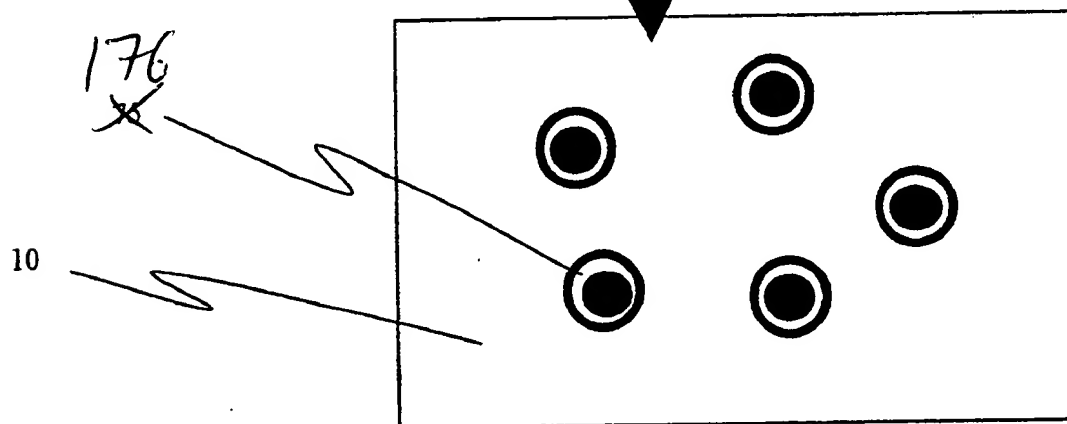


Figure 1E

Corrected Drawings - Annotated

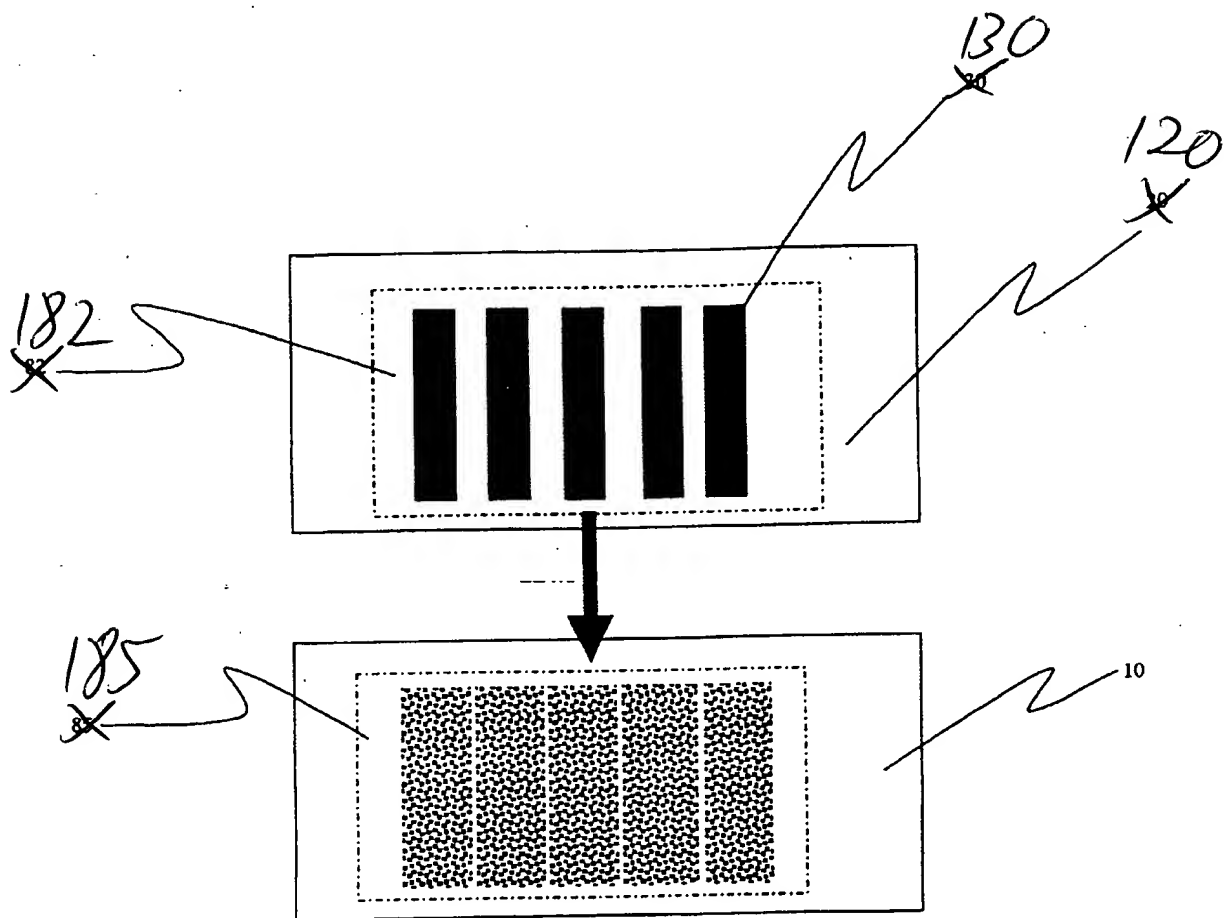


Figure 1F

Corrected Drawings - Annotated

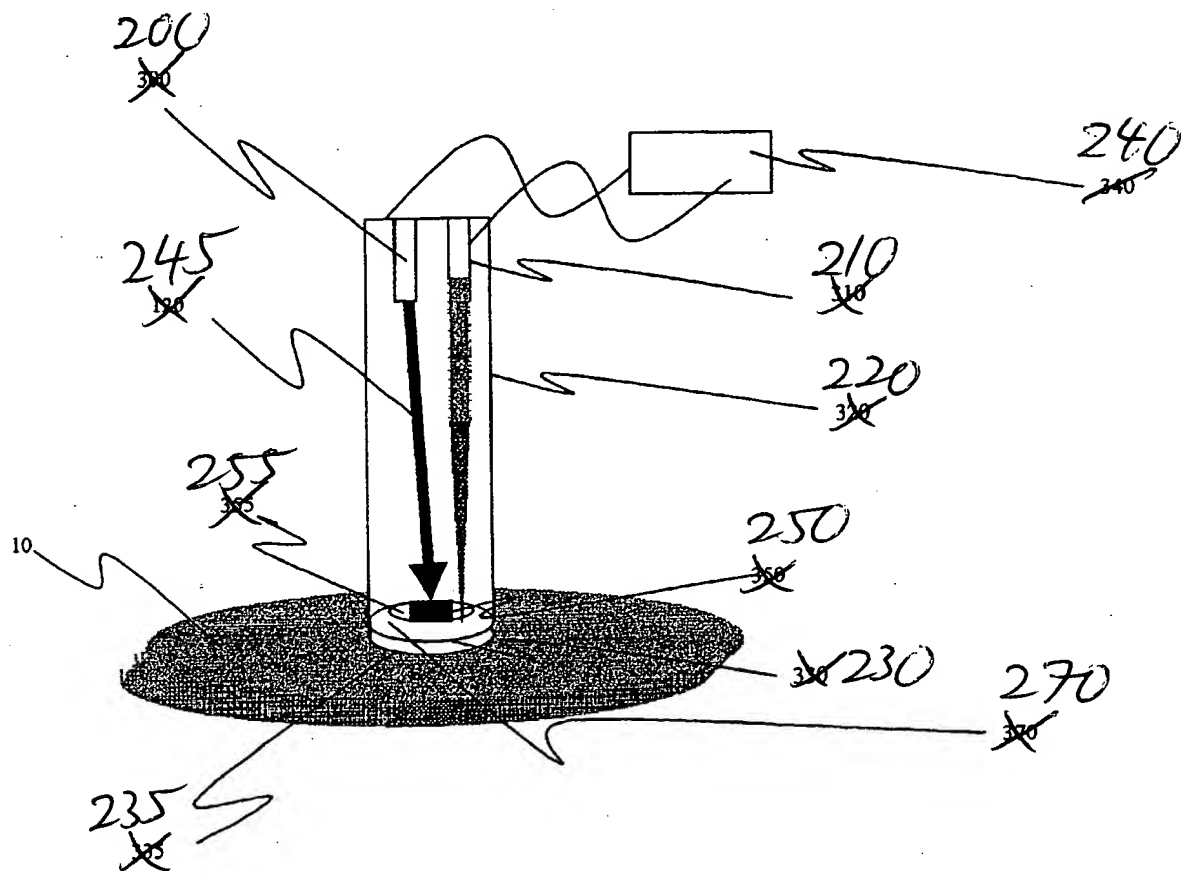


Figure 2A

Corrected Drawings - Annotated

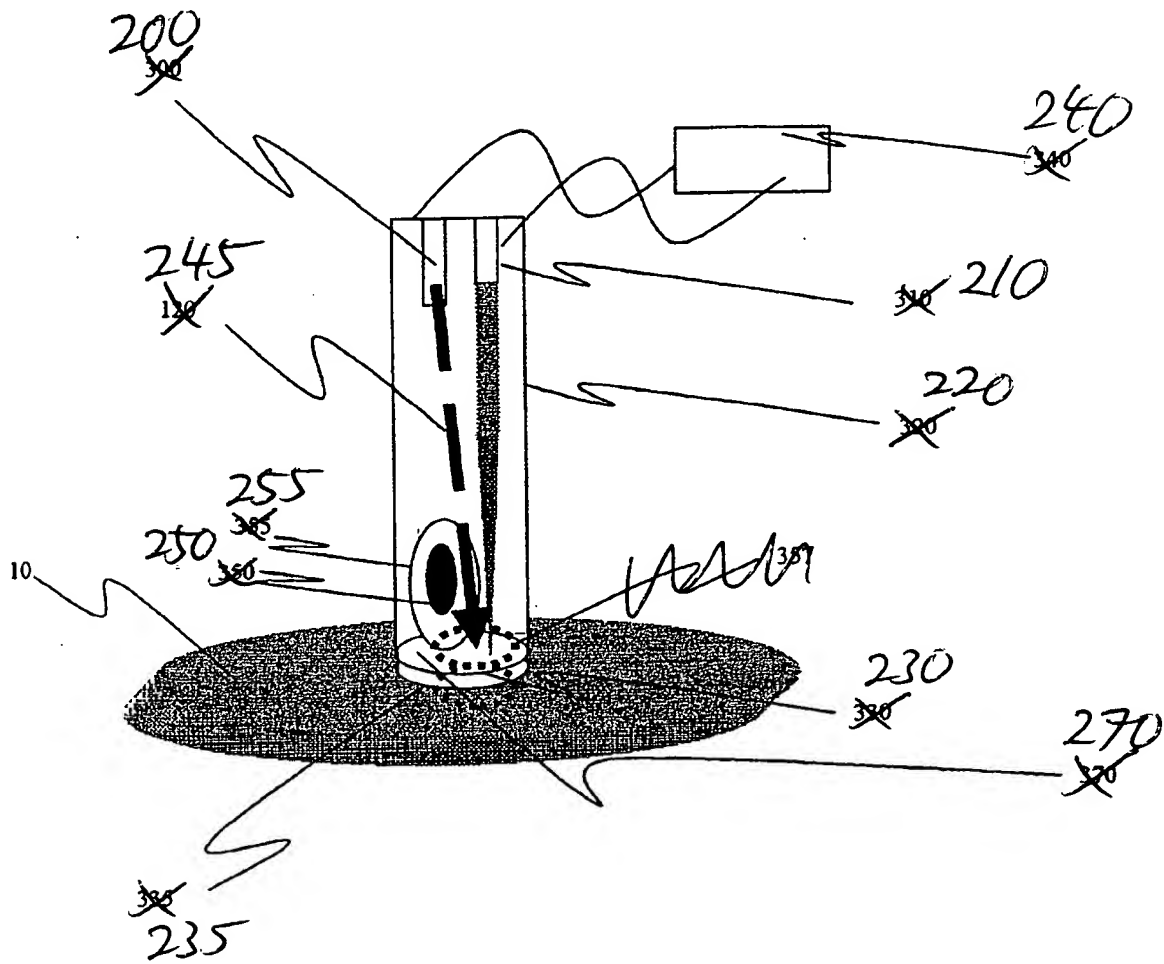


Figure 2B

Corrected Drawings - Annotated

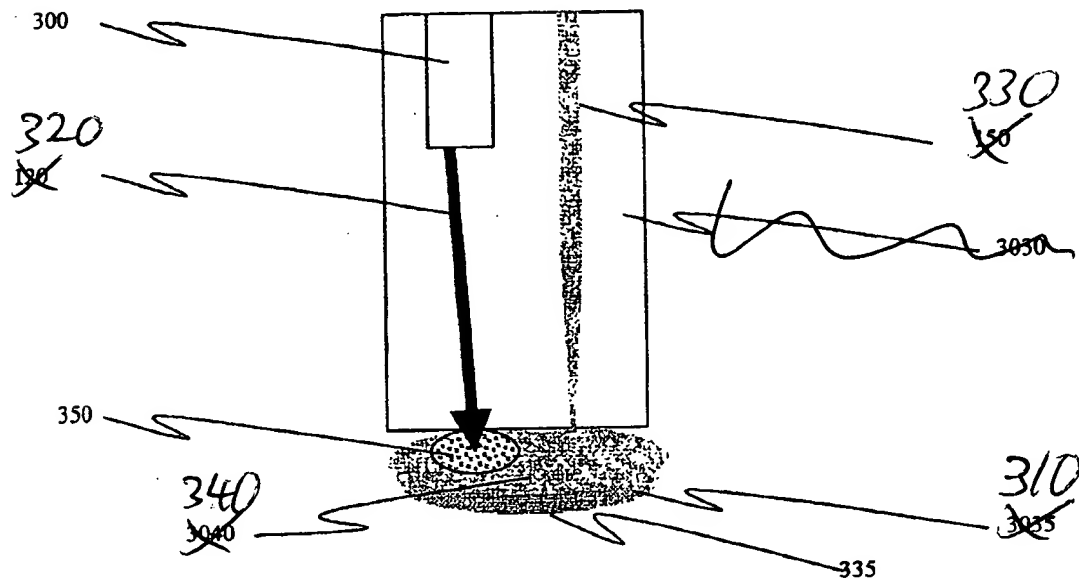


Figure 3A

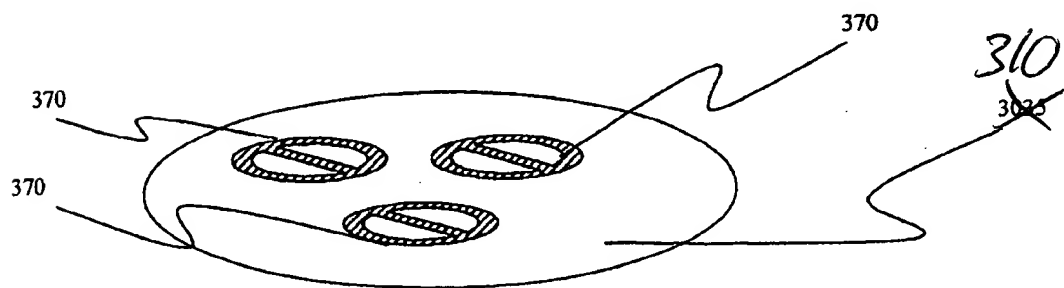


Figure 3B

Corrected Drawings - Annotated

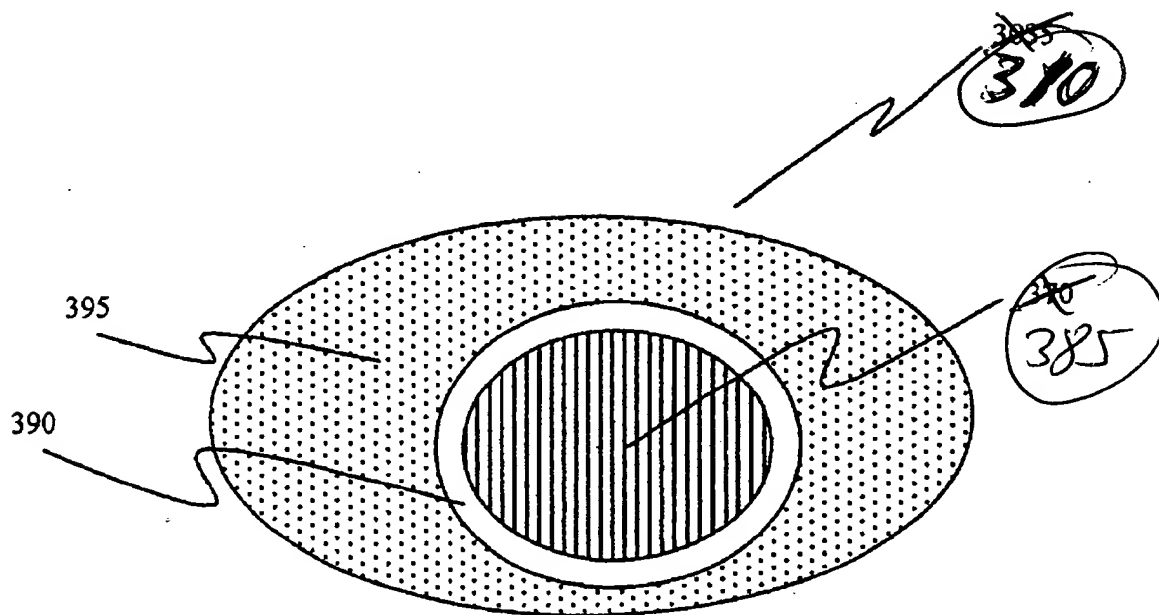


Figure 3C

Corrected Drawings - Annotated

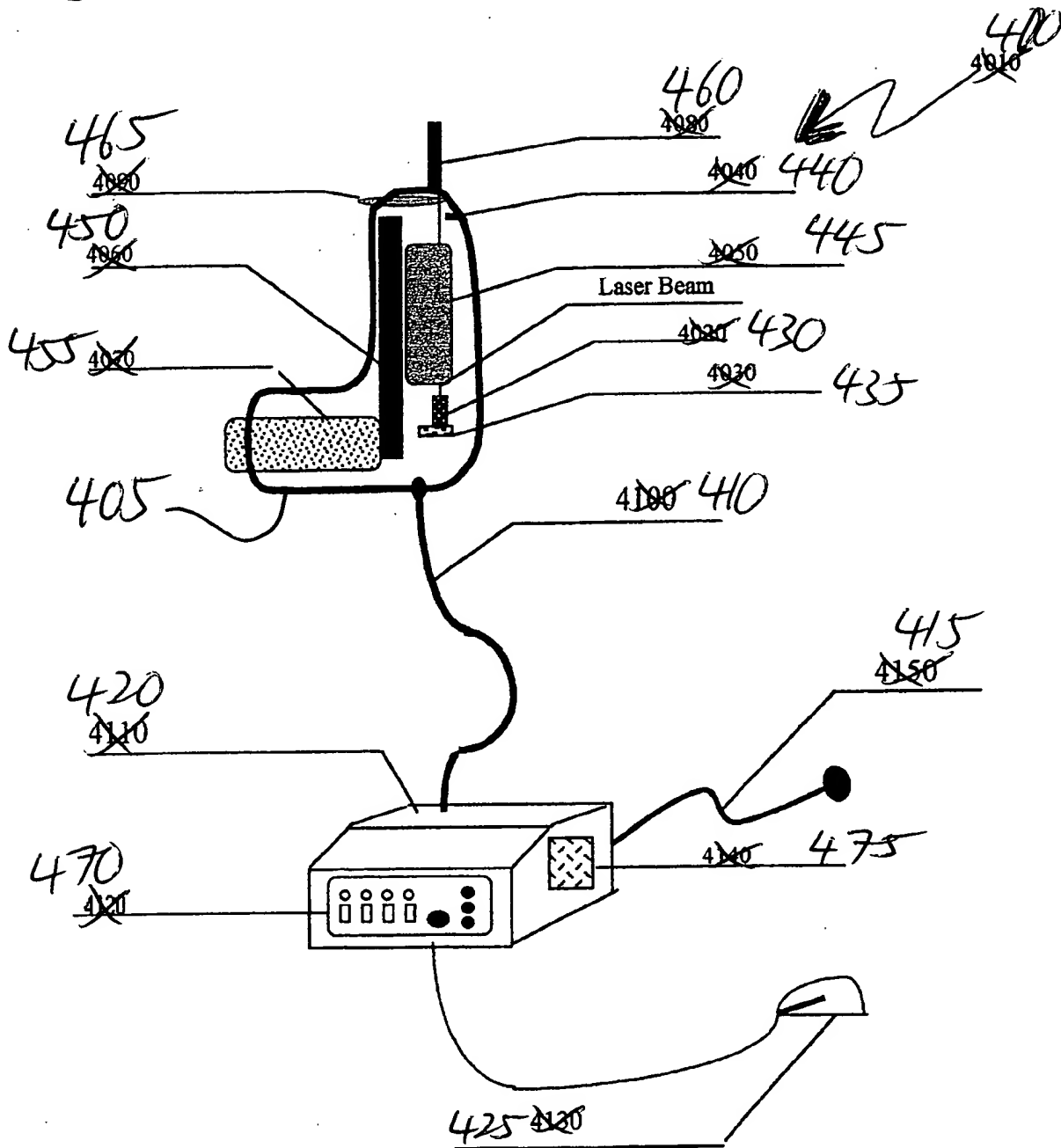


Figure 4

Corrected Drawings - Annotated

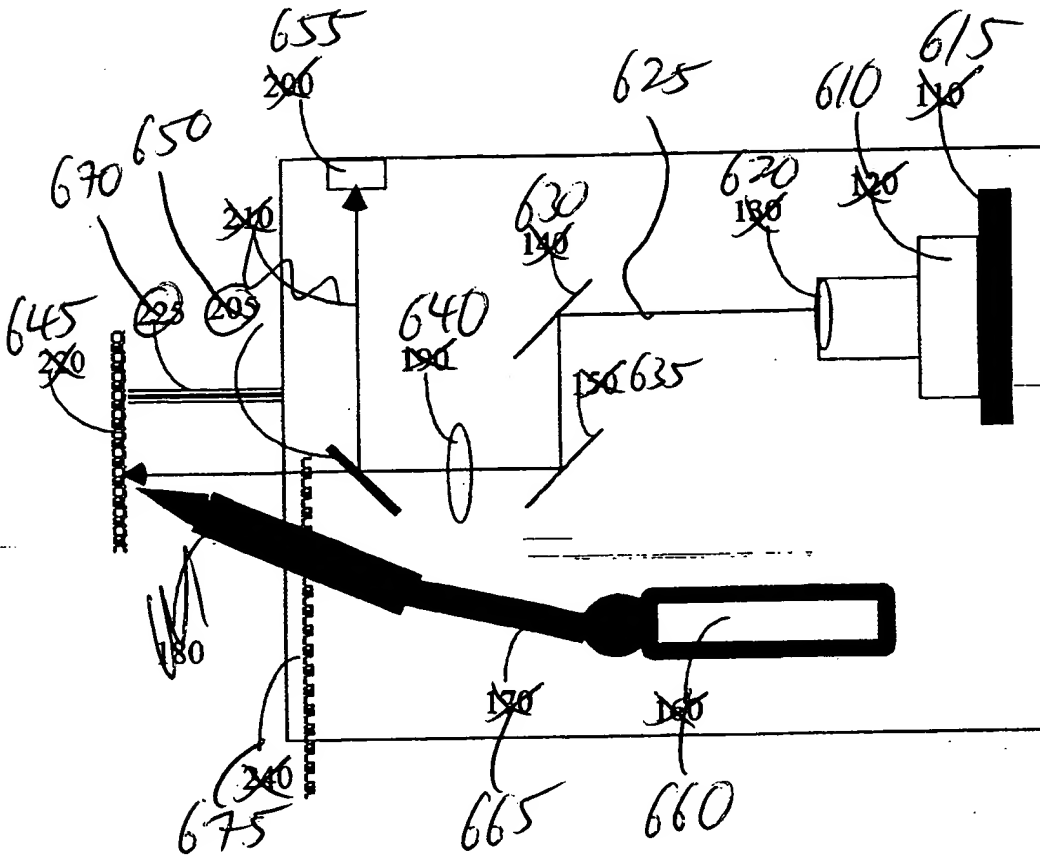


Figure 6

Schematic of the optical beam path and the LogicWand™ beam.

Corrected Drawings - Annotated

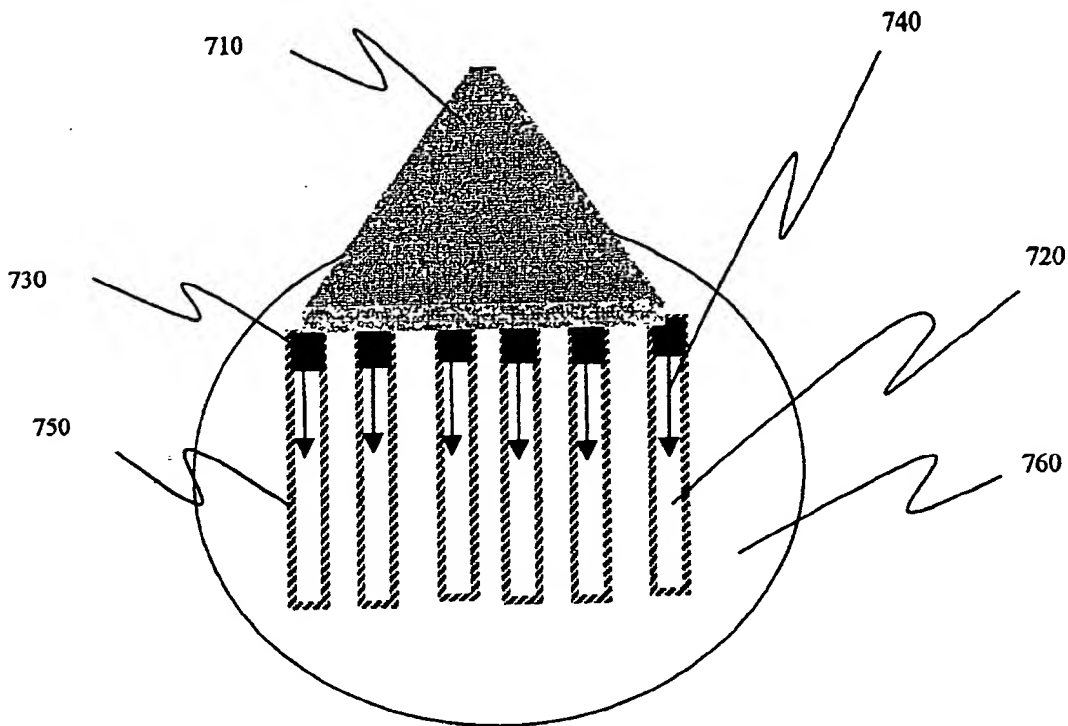


Figure 7A: Non-Beam Steering

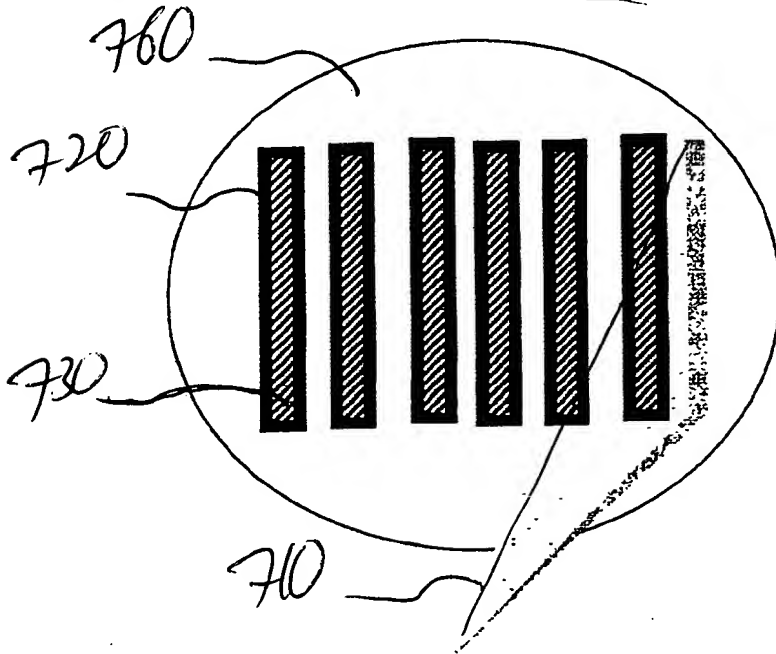


Figure 7B the scanning line.

Corrected Drawings - Annotated

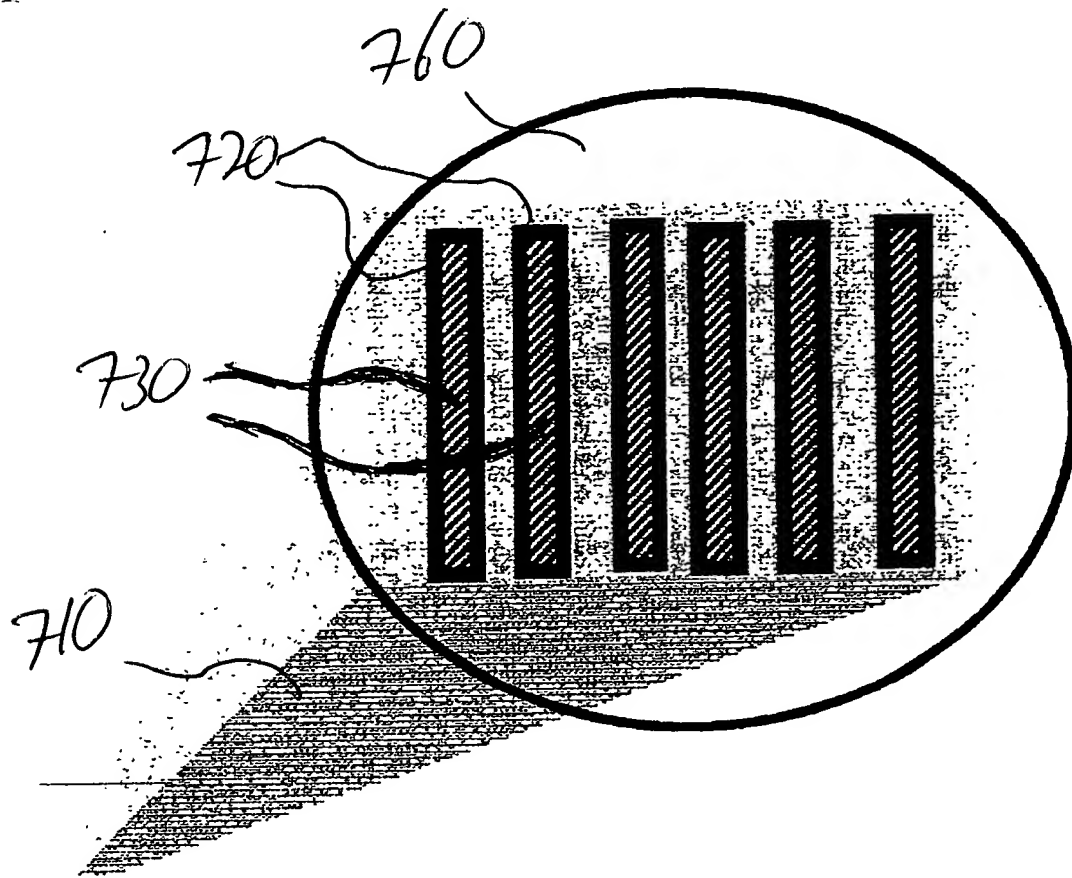


Figure 7C ~~the broad beam.~~

Corrected Drawings - Annotated

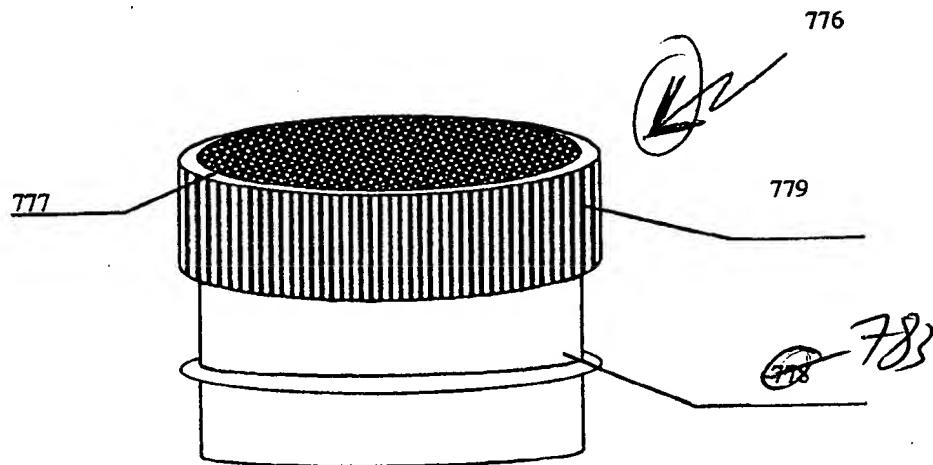


Figure 7D The disposable cup with intermediate material showing the intermediate material to be put in contact with the target material.

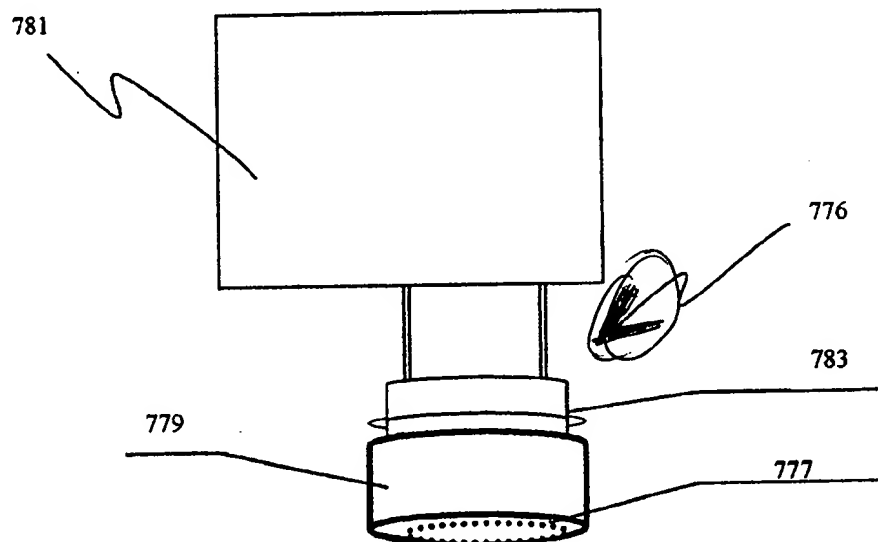


Figure 7E. The disposable cup with intermediate material attached to the energy source.

Corrected Drawings - Annotated

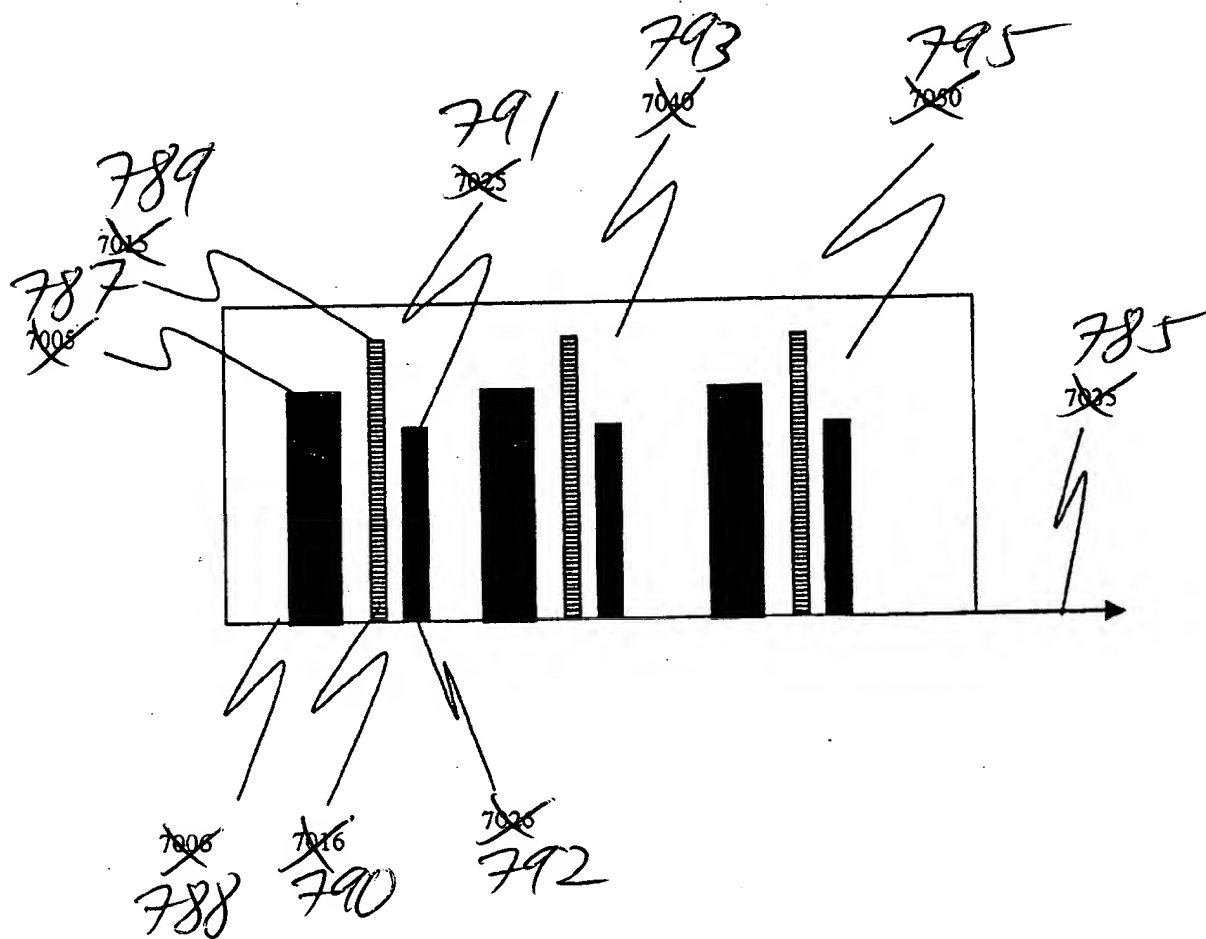


Figure 7F